

"reorganization" under section 368(a) of the Internal Revenue Code of 1986, as amended (the "Code"), that each of the corresponding Acquiring Series and Acquired Series is a "party to a reorganization" within the meaning of section 368(b) of the Code and, as a consequence, the Reorganization will be tax-free for each of the Acquiring Series and Acquired Series and their respective shareholders, and (b) the Company and the Trust shall have received the order requested in the application. After entry of an order by the SEC granting the relief requested in the application, neither the Company nor the Trust will make any material changes to the Agreement that affect the application without the prior approval of the SEC staff.

#### Applicants' Legal Analysis

1. Sections 17(a)(1) and 17(a)(2) of the Act prohibit any affiliated person of a registered investment company, or any affiliated person of such a person, acting as principal, from knowingly selling to or purchasing from such registered company any security or other property. Section 2(a)(3) of the Act defines an "affiliated person" of another person to include: (a) Any person directly or indirectly owning, controlling, or holding with the power to vote, 5 per centum or more of the outstanding voting securities of such other person; (b) any person 5 per centum or more of whose outstanding voting securities are directly or indirectly owned, controlled, or held with the power to vote, by such other person; (c) any person directly or indirectly controlling, controlled by, or under common control with, such other person; and, (d) if such other person is an investment company, any investment adviser thereof.

2. Section 17(b) authorizes the SEC to exempt a proposed transaction from section 17(a) if evidence establishes that: (a) The terms of the transaction, including the consideration to be paid or received, are reasonable and fair and do not involve overreaching on the part of any person concerned; and (b) the proposed transaction is consistent with the policy of each registered investment company concerned and the general purposes of the Act.

3. Rule 17a-8 generally exempts from the prohibitions of section 17(a) mergers, consolidations, or purchases or sales of substantially all of the assets of registered investment companies that are affiliated persons, or affiliated persons of an affiliated person, solely by reason of having a common investment adviser, common directors, and/or common officers, provided that certain conditions are satisfied. Applicants

believe that, because Provident and its affiliates own, control, or hold with the power to vote 5% or more of the outstanding voting securities of each Acquired Series and because Provident is the investment adviser to the Company and the Trust, and each of their respective series, Provident may be an affiliated person of the Company and the Trust, and each of the Acquired Series and the Acquiring Series, under section 2(a)(3)(C) of the Act for reasons in addition to having common directors/trustees and officers and a common investment adviser. Applicants believe that the Company therefore is an affiliated person of an affiliated person of the Trust prohibited by section 17(a)(1) from selling any security or other property to the Trust, and that applicants may not rely on rule 17a-8. For this reason, applicants request an order under section 17(b) of the Act exempting them from section 17(a) to the extent necessary to complete the Reorganization.

4. Applicants submit that the Reorganization satisfies the requirements of section 17(b). Applicants state that the shareholders of the Acquired Series, in effect, will become shareholders of Acquiring Series, the investment objectives, policies and restrictions of which are identical to those of the Acquired Series, pursuant to an exchange which is based on the relative net asset values of such shares and no sales charge or contingent deferred sales charge will be incurred by shareholders of the Acquired Series in connection with their acquisition of Acquiring Series shares. In addition, applicants note that the Company Board and the Trust Board, including directors who are not "interested persons" as defined in the Act, have respectively determined that the Reorganization is in the best interest of the Company and the Trust and of the shareholders, respectively, of the Acquired Series and the Acquiring Series. Finally, applicants submit that the Reorganization, if undertaken in the manner described in the application, is consistent with the general purposes of the Act as set forth in section 1(b) of the Act.

For the SEC, by the Division of Investment Management, under delegated authority.

**Margaret H. McFarland,**

*Deputy Secretary.*

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## SMALL BUSINESS ADMINISTRATION

### [Declaration of Disaster #2960]

#### State of Michigan

Allegan County and the contiguous Counties of Barry, Kalamazoo, Kent, Ottawa, and Van Buren in the State of Michigan constitute a disaster area as a result of damages caused by severe storms and flooding which occurred on June 20 and 21, 1997. Applications for loans for physical damages may be filed until the close of business on September 4, 1997 and for economic injury until the close of business on April 3, 1998 at the address listed below or other locally announced locations:

U.S. Small Business Administration,  
Disaster Area 1 Office, 360 Rainbow  
Blvd., South, 3rd Fl., Niagara Falls,  
NY 14303

The interest rates are:

	Percent
For Physical Damage:	
HOMEOWNERS WITH CREDIT AVAILABLE ELSEWHERE ....	8.000
HOMEOWNERS WITHOUT CREDIT AVAILABLE ELSEWHERE .....	4.000
BUSINESSES WITH CREDIT AVAILABLE ELSEWHERE ....	8.000
BUSINESSES AND NON-PROFIT ORGANIZATIONS WITHOUT CREDIT AVAILABLE ELSEWHERE .....	4.000
OTHERS (INCLUDING NON-PROFIT ORGANIZATIONS) WITH CREDIT AVAILABLE ELSEWHERE .....	7.250
For Economic Injury:	
BUSINESSES AND SMALL AGRICULTURAL COOPERATIVES WITHOUT CREDIT AVAILABLE ELSEWHERE ....	4.000

The number assigned to this disaster for physical damage is 296006 and for economic injury the number is 952500.

Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008)

Dated: July 3, 1997.

**Aida Alvarez,**

*Administrator.*

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## DEPARTMENT OF TRANSPORTATION

### Aviation Proceedings, Agreements Filed During the Week of July 4, 1997

The following Agreements were filed with the Department of Transportation under the provisions of 49 U.S.C. 412 and 414. Answers may be filed within 21 days of date of filing.